IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3175 of 2007()

CRMP.1186/2007 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

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PETITIONERS:

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1. **ARUCHAMI, AGED 40 YEARS,**
   S/O.SUPRAN, PETTAPULIYAMARATHUPALAM,
   PALLADAM, COIMBATORE DISTRICT.

2. **BANNARI, AGED 32 YEARS,**
   W/O.ARUCHAMI, PETTAPULIYAMARATHUPALAM,
   PALLADAM, COIMBATORE DISTRICT.

BY ADV. SRI.G.PRIYADARSAN THAMPI

RESPONDENT:

STATE OF KERALA, REP.BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C. No. 3175 Of 2007

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Dated this the 25th day of October, 2007

ORDER

The petitioners are witnesses as also victims in a crime registered at Agaly Police Station as Crime No.4/2007. The crime is registered for offences punishable, inter alia, under Sec. 395 IPC and 3 of the S.C./S.T.Prevention of Atrocities Act.

2. Obviously the petitioners are no mood to support the case in the prosecution. They went before the Chief Judicial Magistrate Court at Palakkad and prayed that their statements may be recorded under Section 164(1) Cr.P.C. The learned Chief Judicial Magistrate following the decision in **Jogendra Nahak and others v. State of Orissa and others** (AIR 1999 SC 2565) turned down the request of the petitioners. The petitioners have come to this Court claiming to be aggrieved by the said order.

3. After detailed discussions at the Bar, I find the challenge to be obviously unsustainable as the instant case is squarely covered in the decision in **Jogendra Nahak and others v. State of Orissa and others** (AIR 1999 SC 2565) referred above.

4. However, the learned counsel for the petitioner proceeded to press the petition and raised the complaint that the petitioners are

being unnecessarily vexed and harassed by the Police by frequently calling them to the Police Station. Such harassment may be avoided and appropriate directions may be issued, it is prayed.

5. The learned Public Prosecutor was directed to take instructions. The learned Public Prosecutor submits that the petitioners' statements have already been recorded and it is not necessary to have their presence at the Police Station for any reason now. They shall not be called to the police station for any purpose now, submits the learned Public Prosecutor. If in future, if any such requirement is there a proper notice under Sec.160 Cr.P.C. shall be issued to them, also undertakes the learned Public Prosecutor.

6. That submissions of the learned Public Prosecutor is take note of and is recorded. Hence this Crl.M.C is dismissed, recording the submissions of the learned Public Prosecutor.

(R.BASANT, JUDGE)

sj